IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF SOUTH CAROLINA

COLUMBIA DIVISION

T.M., by and through her guardian ad litem, John D. Elliott, Plaintiff, v. South Carolina Department of Social Services (SCDSS), Irene Williams, April Fogle, Lalita Garnett, Lawanda Greggs, Alex Wright, Mary Buskey, Michelle Ingram-Smith, Anna Jones, Nicole Scott, Melissa Graham, Yvonne Wilson, Shavonna Gibson, South Carolina Youth Advocate Program, Inc. and Kim Long, Defendant.	Civil Action Number: 3:15-2084-TLW **ANSWER ON BEHALF OF DEFENDANT LALITA GARNETT** **(Jury Trial Demanded)**

The Defendant, Lalita Garnett, hereby answers the Amended Complaint of the Plaintiff as follows:

FOR A FIRST DEFENSE

1. The Summons and Amended Complaint fail to state facts sufficient to state a cause of action.

FOR A SECOND DEFENSE

2. The Defendant denies each and every allegation of the Plaintiff's Amended Complaint not hereinafter specifically admitted, qualified, or explained.

3. As to Paragraph 1, the Defendant denies these allegations as stated.

4. As to Paragraph 2, the Defendant would reiterate and reallege each and every paragraph and affirmative defense as if set forth herein verbatim

5. As to Paragraph 3, the Defendant, upon information and belief, admits that Plaintiff T.M is a citizen and resident of Richland County and a minor child in the legal custody of the Department of Social Services due to the termination of parental rights in March 2012. The remaining allegations are denied as stated.

6. As to Paragraph 4, the Defendant admits that SCDSS is an agency of the State of South Carolina and oversees the welfare, care and treatment of children in SCDSS custody, among other duties. The remaining allegations are denied as stated.

7. As to Paragraphs 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15 and 16, the Defendant admits only that the listed individuals are or were employees of the South Carolina Department of Social Services at some time relevant to these matters. However, the Defendant craves reference to the DSS records regarding her involvement in the subject matters of this Amended Complaint and would deny any allegations inconsistent with or contrary to those records.

8. As to Paragraphs 17 and 18, the Defendant asserts these allegations are not directed towards this Defendant and require no response.

9. As to Paragraphs 19 and 20, the Defendant asserts these allegations are jurisdictional in nature and require no response. However, to the extent these paragraphs allege any wrongdoing or liability on the part of the Defendant, those allegations are denied.

10. As to Paragraph 21, the Defendant would reiterate and reallege each and every paragraph and affirmative defense as if set forth herein verbatim.

11. As to Paragraphs 22, 23, 24, 25 and 26, the Defendant would crave reference to the foster care records of Plaintiff TM as the best evidence of these allegations and would deny

any allegations inconsistent with those records. However, to the extent these paragraphs allege any wrongdoing or liability on the part of the Defendant, those allegations are denied.

12. As to Paragraph 27, the Defendant admits these allegations upon information and belief.

13. As to Paragraphs 28, 29, 30, 31, 32, 33 and 34, the Defendant would crave reference to the foster care records of Plaintiff TM as the best evidence of these allegations and would deny any allegations inconsistent with those records. However, to the extent these paragraphs allege any wrongdoing or liability on the part of the Defendant, those allegations are denied.

14. As to Paragraph 35, the Defendant would crave reference to the foster care records of Plaintiff TM and any records maintained by SCYAP as the best evidence of these allegations and would deny any allegations inconsistent with those records. However, to the extent these paragraphs allege any wrongdoing or liability on the part of the Defendant, those allegations are denied.

15. As to Paragraphs 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52 and 53, the Defendant would crave reference to the foster care records, medical records, mental health records, counseling records and SCYAP records of Plaintiff TM as the best evidence of these allegations and would deny any allegations inconsistent with those records. However, to the extent these paragraphs allege any wrongdoing or liability on the part of the Defendant, those allegations are denied.

16. As to Paragraph 54, the Defendant would reiterate and reallege each and every paragraph and affirmative defense as if set forth herein verbatim.

17. As to Paragraphs 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104 and 105, the Defendant asserts that in so far as the referenced documents may be relevant, the Defendant craves reference to those documents and their content, but in no way concede these documents are relevant or admissible. However, to the extent these paragraphs allege any wrongdoing or liability on the part of the Defendant, those allegations are denied.

18. As to Paragraph 106, the Defendant would reiterate and reallege each and every paragraph and affirmative defense as if set forth herein verbatim.

19. As to Paragraph 107, these allegations set forth legal conclusions that require no response. However, to the extent these allegations set forth any wrongdoing or liability on the part of the Defendant, those allegations are denied.

20. As to Paragraphs 108, 109 and 110, the Defendant denies those allegations as stated.

21. As to Paragraph 111, the Defendant asserts the Plaintiff is not entitled to the relief requested or any other relief from the Defendant.

22. As to Paragraph 112, the Defendant would reiterate and reallege each and every paragraph and affirmative defense as if set forth herein verbatim.

23. As to Paragraphs 113 and 114, the allegations set forth legal conclusions that require no response. However, to the extent these allegations set forth any wrongdoing or liability on the part of the Defendant, those allegations are denied.

24. As to Paragraphs 115, 116, 117, 118, 119 and 120, the Defendant denies those allegations as stated.

25. As to Paragraph 121, the Defendant asserts the Plaintiff is not entitled to the relief requested or any other relief from the Defendant.

26. As to Paragraph 122, the Defendant would reiterate and reallege each and every paragraph and affirmative defense as if set forth herein verbatim.

27. As to Paragraph 123, these allegations set forth legal conclusions that require no response. However, to the extent these allegations set forth any wrongdoing or liability on the part of the Defendant, those allegations are denied.

28. As to Paragraphs 124, 125 and 126, the Defendant denies those allegations as stated.

29. As to Paragraph 127, the Defendant asserts the Plaintiff is not entitled to the relief requested or any other relief from the Defendant.

30. As to Paragraph 128, the Defendant would reiterate and reallege each and every paragraph and affirmative defense as if set forth herein verbatim.

31. As to Paragraphs 129 and 130, these allegations set forth legal conclusions that require no response. However, to the extent these allegations set forth any wrongdoing or liability on the part of the Defendant, those allegations are denied.

32. As to Paragraphs 131, 132, 133, 134, 135 and 136, the Defendant denies these allegations.

33. As to Paragraph 137, the Defendant asserts the Plaintiff is not entitled to the relief requested or any other relief from the Defendant.

34. As to Paragraph 138, the Defendant would reiterate and reallege each and every paragraph and affirmative defense as if set forth herein verbatim.

35. As to Paragraph 139, these allegations set forth legal conclusions that require no response. However, to the extent these allegations set forth any wrongdoing or liability on the part of the Defendant, those allegations are denied.

36. As to Paragraphs 140, 141 and 142, the Defendant denies those allegations as stated.

37. As to Paragraph 143, the Defendant asserts the Plaintiff is not entitled to the relief requested or any other relief from the Defendant.

38. As to Paragraph 144, the Defendant would reiterate and reallege each and every paragraph and affirmative defense as if set forth herein verbatim.

39. As to Paragraphs 145 and 146, these allegations set forth legal conclusions that require no response. However, to the extent these allegations set forth any wrongdoing or liability on the part of the Defendant, those allegations are denied.

40. As to Paragraphs 147, 148, 149, 150, 151 and 152, the Defendant denies these allegations.

41. As to Paragraph 153, the Defendant asserts the Plaintiff is not entitled to the relief requested or any other relief from the Defendant.

42. As to Paragraph 154, the Defendant would reiterate and reallege each and every paragraph and affirmative defense as if set forth herein verbatim.

43. As to Paragraph 155, these allegations set forth legal conclusions that require no response. However, to the extent these allegations set forth any wrongdoing or liability on the part of the Defendant, those allegations are denied.

44. As to Paragraphs 156, 157 and 158, the Defendant denies those allegations as stated.

45. As to Paragraphs 159, the Defendant asserts the Plaintiff is not entitled to the relief requested or any other relief from the Defendant.

46. As to Paragraph 160, the Defendant would reiterate and reallege each and every paragraph and affirmative defense as if set forth herein verbatim.

47. As to Paragraphs 161 and 162, these allegations set forth legal conclusions that require no response. However, to the extent these allegations set forth any wrongdoing or liability on the part of the Defendant, those allegations are denied.

48. As to Paragraphs 163, 164, 165, 166, 167 and 168, the Defendant denies these allegations.

49. As to Paragraph 169, the Defendant asserts the Plaintiff is not entitled to the relief requested or any other relief from the Defendant.

50. As to Paragraph 170, the Defendant would reiterate and reallege each and every paragraph and affirmative defense as if set forth herein verbatim.

51. As to Paragraph 171, these allegations set forth legal conclusions that require no response. However, to the extent these allegations set forth any wrongdoing or liability on the part of the Defendant, those allegations are denied.

52. As to Paragraphs 172, 173 and 174, the Defendant denies those allegations as stated.

53. As to Paragraph 175, the Defendant asserts the Plaintiff is not entitled to the relief requested or any other relief from the Defendant.

54. As to Paragraph 176, the Defendant would reiterate and reallege each and every paragraph and affirmative defense as if set forth herein verbatim.

55. As to Paragraphs 177 and 178, these allegations set forth legal conclusions that require no response. However, to the extent these allegations set forth any wrongdoing or liability on the part of the Defendant, those allegations are denied.

56. As to Paragraphs 179, 180, 181, 182, 183 and 184, the Defendant denies these allegations.

57. As to Paragraph 185, the Defendant asserts the Plaintiff is not entitled to the relief requested or any other relief from the Defendant.

58. As to Paragraph 186, the Defendant would reiterate and reallege each and every paragraph and affirmative defense as if set forth herein verbatim.

59. As to Paragraph 187, these allegations set forth legal conclusions that require no response. However, to the extent these allegations set forth any wrongdoing or liability on the part of the Defendant, those allegations are denied.

60. As to Paragraphs 188, 189 and 190, the Defendant denies those allegations as stated.

61. As to Paragraph 191, the Defendant asserts the Plaintiff is not entitled to the relief requested or any other relief from the Defendant.

62. As to Paragraph 192, the Defendant would reiterate and reallege each and every paragraph and affirmative defense as if set forth herein verbatim.

63. As to Paragraphs 193 and 194, these allegations set forth legal conclusions that require no response. However, to the extent these allegations set forth any wrongdoing or liability on the part of the Defendant, those allegations are denied.

64. As to Paragraphs 195, 196, 197, 198, 199 and 200, the Defendant denies these allegations.

65. As to Paragraph 201, the Defendant asserts the Plaintiff is not entitled to the relief requested or any other relief from the Defendant.

66. As to Paragraph 202, the Defendant would reiterate and reallege each and every paragraph and affirmative defense as if set forth herein verbatim.

67. As to Paragraph 203, these allegations set forth legal conclusions that require no response. However, to the extent these allegations set forth any wrongdoing or liability on the part of the Defendant, those allegations are denied.

68. As to Paragraphs 204, 205 and 206, the Defendant denies those allegations as stated.

69. As to Paragraph 207, the Defendant asserts the Plaintiff is not entitled to the relief requested or any other relief from the Defendant.

70. As to Paragraph 208, the Defendant would reiterate and reallege each and every paragraph and affirmative defense as if set forth herein verbatim.

71. As to Paragraphs 209 and 210, these allegations set forth legal conclusions that require no response. However, to the extent these allegations set forth any wrongdoing or liability on the part of the Defendant, those allegations are denied.

72. As to Paragraphs 211, 212, 213, 214, 215 and 216, the Defendant denies these allegations.

73. As to Paragraph 217, the Defendant asserts the Plaintiff is not entitled to the relief requested or any other relief from the Defendant.

74. As to Paragraph 218, the Defendant would reiterate and reallege each and every paragraph and affirmative defense as if set forth herein verbatim.

75. As to Paragraph 219, these allegations set forth legal conclusions that require no response. However, to the extent these allegations set forth any wrongdoing or liability on the part of the Defendant, those allegations are denied.

76. As to Paragraphs 220, 221 and 222, the Defendant denies those allegations as stated.

77. As to Paragraph 223, the Defendant asserts the Plaintiff is not entitled to the relief requested or any other relief from the Defendant.

78. As to Paragraph 224, the Defendant would reiterate and reallege each and every paragraph and affirmative defense as if set forth herein verbatim.

79. As to Paragraphs 225 and 226, these allegations set forth legal conclusions that require no response. However, to the extent these allegations set forth any wrongdoing or liability on the part of the Defendant, those allegations are denied.

80. As to Paragraphs 227, 228, 229, 230, 231 and 232, the Defendant denies these allegations.

81. As to Paragraph 233, the Defendant asserts the Plaintiff is not entitled to the relief requested or any other relief from the Defendant.

82. As to Paragraph 234, the Defendant would reiterate and reallege each and every paragraph and affirmative defense as if set forth herein verbatim.

83. As to Paragraph 235, these allegations set forth legal conclusions that require no response. However, to the extent these allegations set forth any wrongdoing or liability on the part of the Defendant, those allegations are denied.

84. As to Paragraphs 236, 237 and 238, the Defendant denies those allegations as stated.

85. As to Paragraph 239, the Defendant asserts the Plaintiff is not entitled to the relief requested or any other relief from the Defendant.

86. As to Paragraph 240, the Defendant would reiterate and reallege each and every paragraph and affirmative defense as if set forth herein verbatim.

87. As to Paragraphs 241 and 242, these allegations set forth legal conclusions that require no response. However, to the extent these allegations set forth any wrongdoing or liability on the part of the Defendant, those allegations are denied.

88. As to Paragraphs 243, 244, 245, 246, 247 and 248, the Defendant denies these allegations.

89. As to Paragraph 249, the Defendant asserts the Plaintiff is not entitled to the relief requested or any other relief from the Defendant.

90. As to Paragraph 250, the Defendant would reiterate and reallege each and every paragraph and affirmative defense as if set forth herein verbatim.

91. As to Paragraph 251, these allegations set forth legal conclusions that require no response. However, to the extent these allegations set forth any wrongdoing or liability on the part of the Defendant, those allegations are denied.

92. As to Paragraphs 252, 253 and 254, the Defendant denies those allegations as stated.

93. As to Paragraph 255, the Defendant asserts the Plaintiff is not entitled to the relief requested or any other relief from the Defendant.

94. As to Paragraph 256, the Defendant would reiterate and reallege each and every paragraph and affirmative defense as if set forth herein verbatim.

95. As to Paragraphs 257 and 258, these allegations set forth legal conclusions that require no response. However, to the extent these allegations set forth any wrongdoing or liability on the part of the Defendant, those allegations are denied.

96. As to Paragraphs 259, 260, 261, 262, 263 and 264, the Defendant denies these allegations.

97. As to Paragraph 265, the Defendant asserts the Plaintiff is not entitled to the relief requested or any other relief from the Defendant.

98. As to Paragraph 266, the Defendant would reiterate and reallege each and every paragraph and affirmative defense as if set forth herein verbatim.

99. As to Paragraph 267, these allegations set forth legal conclusions that require no response. However, to the extent these allegations set forth any wrongdoing or liability on the part of the Defendant, those allegations are denied.

100. As to Paragraphs 268, 269 and 270, the Defendant denies those allegations as stated.

101. As to Paragraph 271, the Defendant asserts the Plaintiff is not entitled to the relief requested or any other relief from the Defendant.

102. As to Paragraph 272, the Defendant would reiterate and reallege each and every paragraph and affirmative defense as if set forth herein verbatim.

103. As to Paragraphs 273 and 274, these allegations set forth legal conclusions that require no response. However, to the extent these allegations set forth any wrongdoing or liability on the part of the Defendant, those allegations are denied.

104. As to Paragraphs 275, 276, 277, 278, 279 and 280, the Defendant denies these allegations.

105. As to Paragraph 281, the Defendant asserts the Plaintiff is not entitled to the relief requested or any other relief from the Defendant.

106. As to Paragraph 282, the Defendant would reiterate and reallege each and every paragraph and affirmative defense as if set forth herein verbatim.

107. As to Paragraph 283, these allegations set forth legal conclusions that require no response. However, to the extent these allegations set forth any wrongdoing or liability on the part of the Defendant, those allegations are denied.

108. As to Paragraphs 284, 285 and 286, the Defendant denies those allegations as stated.

109. As to Paragraph 287, the Defendant asserts the Plaintiff is not entitled to the relief requested or any other relief from the Defendant.

110. As to Paragraph 288, the Defendant would reiterate and reallege each and every paragraph and affirmative defense as if set forth herein verbatim.

111. As to Paragraphs 289 and 290, these allegations set forth legal conclusions that require no response. However, to the extent these allegations set forth any wrongdoing or liability on the part of the Defendant, those allegations are denied.

112. As to Paragraphs 291, 292, 293, 294, 295 and 296, the Defendant denies these allegations.

114. As to Paragraph 297, the Defendant asserts the Plaintiff is not entitled to the relief requested or any other relief from the Defendant.

115. As to Paragraph 298, the Defendant would reiterate and reallege each and every paragraph and affirmative defense as if set forth herein verbatim.

116. As to Paragraphs 299, 300, 301, 302 and 303, these allegations are not directed toward the Defendant and require no response. However, to the extent these allegations set forth any wrongdoing or liability on the part of the Defendant, those allegations are denied.

117. As to Paragraph 304, the Defendant would reiterate and reallege each and every paragraph and affirmative defense as if set forth herein verbatim.

118. As to Paragraphs 305, 306, 307, 308, 309 and 310, these allegations are not directed toward the Defendant and require no response. However, to the extent these allegations set forth any wrongdoing or liability on the part of the Defendant, those allegations are denied.

119. As to Plaintiff's Prayer for Relief beginning "WHEREFORE", the Defendant denies the Plaintiff is entitled to the relief requested, or any other relief, from the Defendant.

FOR A THIRD DEFENSE

120. The Defendant asserts this Court lacks subject matter jurisdiction over the Defendant with regard to these matters.

FOR A FOURTH DEFENSE

121. The Defendant alleges upon information and belief the Plaintiff has failed to exhaust the administrative remedies available to her, and, therefore, this action must be dismissed.

FOR A FIFTH DEFENSE

122. In so far as this matter in whole or in part is governed by any contract, this action is barred by the provisions of the applicable contract.

FOR A SIXTH DEFENSE

123. The Plaintiff's Amended Complaint fails to state a justiciable claim.

FOR A SEVENTH DEFENSE

124. The Defendant asserts this matter must be dismissed pursuant to the doctrine of abstention under *Colorado River Water Conservation District v. United States*, 42 U.S. 800 (1976).

FOR AN EIGHTH DEFENSE

125. The Defendant at no time violated any clearly established constitutional rights which were known or should have been known to them and, therefore, the Defendant is entitled to immunity.

FOR A NINTH DEFENSE

126. The Defendant acted objectively reasonable in light of the existing law, and therefore, the Defendant is entitled to immunity.

FOR A TENTH DEFENSE

127. The Defendant in her official capacity is an alter ego of the State of South Carolina and is immune from suit and this action should be dismissed.

FOR AN ELEVENTH DEFENSE

128. The Defendant alleges upon information and belief that at all times herein that she was acting within the course and scope of her employment in a discretionary manner, in good faith, without bad faith or malicious motives in the performance of her official duties, and therefore, the Defendant is immune from suit.

FOR A TWELFTH DEFENSE

129. The Defendant asserts the defense of sovereign immunity, pursuant to the terms of the South Carolina Tort Claims Act, including but not limited to the damages caps set forth in S.C. Code Ann. § 15-78-120 and the bar on punitive damages and attorney's fees.

FOR A THIRTEENTH DEFENSE

130. The Defendant alleges that any damages alleged to have been caused by it, which are specifically denied, must be apportioned between this Defendant and all other tortfeasors, pursuant to S.C. Code Ann. § 15-78-100(c).

FOR A FOURTEENTH DEFENSE

131. The Defendant is immune from suit pursuant to S.C. Code Ann. §§ 15-78-40 and/or 15-78-50(b).

FOR A FIFTEENTH DEFENSE

132. The Defendant is entitled to absolute immunity under *Long v. Seabrook* and its progeny.

FOR A SIXTEENTH DEFENSE

133. The Plaintiff's claims are barred by the applicable statute of limitations.

FOR A SEVENTEENTH DEFENSE

134. The Plaintiff's claims are barred by the intervening or superseding negligence of third parties over which the Defendant had no control.

FOR AN EIGHTEENTH DEFENSE

135. The Plaintiff's gross negligence claims against the Defendant are barred by operation of the public duty rule.

FOR A NINETEENTH DEFENSE

136. The Defendant would show that it is immune from suit pursuant to the South Carolina Tort Claims Act, S.C. Code Ann. § 15-78-10, *et seq*., specifically S.C. Code Ann. § 15-78-60 (1), (2), (3), (4), (5), (17), and (20).

FOR A TWENTIETH DEFENSE

137. The Plaintiff has failed to bring suit against an indispensable party, and therefore, this action should be dismissed.

WHEREFORE, having fully answered the Amended Complaint of the Plaintiff, the Defendant prays that this action be dismissed with prejudice, for the costs of this action, and for such other and further relief as the Court deems just and proper.

DAVIDSON & LINDEMANN, P.A.

BY: _/s/_*Joel S. Hughes*_______________
WILLIAM H. DAVIDSON, II, #425
JOEL S. HUGHES, #9796
1611 Devonshire Drive, 2nd Floor
Post Office Box 8568
Columbia, South Carolina 29202
wdavidson@dml-law.com
jhughes@dml-law.com
(803) 806-8222
(803) 806-8855

Attorneys for Defendant SCDSS, Irene Williams, April Fogle, Lalita Garnett, Lawanda Greggs, Alex Wright, Mary Buskey, Michelle Ingram-Smith, Anna Jones, Nicole Scott, Melissa Graham, Yvonne Wilson, and Shavonna Gibson

COLUMBIA, SOUTH CAROLINA

September 4, 2015